

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

HENRY M. COLEMAN

Claim No. CU -3062

Decision No. CU 4586

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Manuel Zaiac, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$234,324.80, was presented by HENRY M. COLEMAN based upon the asserted loss of certain real and personal property in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1644k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant has asserted the loss of the following properties:

Land - 30,000 sq. yards	\$ 56,424.80
Restaurant building	29,000.00
Restaurant equipment	12,000.00
Land improvements	7,500.00
Greyhound Kennels	9,800.00
108 Greyhounds, \$200 each	21,600.00
Powerhouse and two electric plants	10,200.00
Brush factory	33,800.00
Home	20,000.00
Restaurant business	12,000.00
Automobile	4,500.00
Bank Accounts	2,500.00
Life Insurance Policy	15,000.00
Total	<u>\$234,324.80</u>

Apart from descriptions of the above items of property, claimant initially submitted no evidence to support his claim. During the course of development of the claim, an affidavit, dated September 12, 1967, from one Raul Rodriguez was filed on behalf of claimant. According to claimant's statements, some of the properties herein were acquired from the late Ramon Rodriguez, father of the affiant.

The affidavit indicates that Raul Rodriguez was familiar with his late father's properties, customers and friends; that he recalls claimant, and had visited claimant's restaurant and kennel in Cuba. On the basis of the foregoing, Mr. Rodriguez stated that claimant and his wife owned the first seven items of property claimed herein, and that they had values substantially the same as asserted by claimant. Subsequently, counsel for claimant filed a copy of an extract from the commercial register of Havana, Cuba, which indicates that as of July 22, 1956, claimant was registered as the owner of a restaurant known as "The Yank" with an estimated value of \$5,000.00, the Cuban peso being on a par with the United States dollar.

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Claimant stated in his official claim form that Mr. Raul Rodriguez, the said affiant, had an interest in the property involved or the claim. However, neither Mr. Rodriguez nor claimant's wife have filed claims with the Commission.

Subsequently, the Commission received five reports from abroad concerning some of the items of property in question. Two of the reports indicated that persons other than claimant owned the properties and the other reports merely disclosed the lack of available information.

In an effort to assist claimant in documenting his claim, the Commission advised counsel for claimant of these circumstances and suggested the submission of other appropriate supporting evidence to establish both ownership and values of the items of property claimed. The Commission also pointed to claimant's statements in his official claim form, filed May 1, 1967, that he was about to file claims with the Internal Revenue Service for refunds based upon his asserted Cuban losses. Counsel for claimant was asked under date of December 4, 1969 to submit copies of claimant's tax returns and pertinent correspondence from the Internal Revenue Service if claims for such refunds had been filed, and if no such claims had been filed, to advise the Commission of claimant's reasons for not doing so.

When no response was received from counsel or claimant, a "follow up" letter, dated January 12, 1970, was forwarded to counsel for claimant. To date no reply has been received either from counsel or claimant.

The Regulations of the Commission provide:


The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

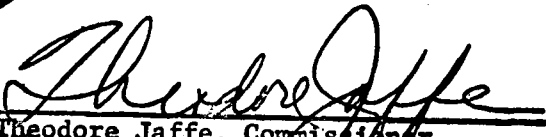
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Upon consideration of the entire record, the Commission finds that the evidence is insufficient to warrant favorable action. The Commission, therefore, concludes that claimant has failed to meet the burden of proof with respect to his claim. Accordingly, this claim is denied in its entirety.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAR 4 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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